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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,847	02/08/2002	Edward Archie McCulloch	597000.01111	9649

27557 7590 10/03/2003

BLANK ROME LLP  
600 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON, DC 20037

EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/067,847

Applicant(s)

MCCULLOCH, EDWARD ARCHIE

Examiner

Kofi A. Schulterbrandt

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This second Office Action is in response to Applicant's Amendment received on June 16, 2003 in this case.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 recites "a plurality of rods and other structural materials". It is unclear what "other structural materials" applicant intended to include in claim 12. Applicant may want to delete the phrase "and other structural materials".

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Abbey (5,317,848). Abbey teaches each feature of the claimed invention as shown in the attached red marked-up copy of Abby's Figures 1, 1a, and 7.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbey (5,317,848), in view of Peshkam et al. (U.S. Pub. 2001/0032430 A1). Abbey teaches each feature of the claimed invention except a polymer composite material. Pashkam, however, teaches a glass fiber reinforced polymer (paragraph [0053], line 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sawyer's panel of a composite polymer as taught by Peshkam as an obvious design choice since numerous composite materials may be used to construct Abbey's panel equally satisfactorily. Regarding claim 4, Abbey's Figure 7 teaches an opening.

Claims 1, 5 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan et al. (5,327,699), in view of Abbey (5,317,848). Khan teach a plurality of panels for constructing a building having a 45 degree angle miter cut (see Figure 28). Khan et al. also teach a conduit (84) (col. 4, ln. 68). Khan et al. do not teach each feature of the structure of the claimed panel. Abbey, however, teaches each feature of the claimed panel. It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Khan et al's. building of Abbey's panels as

numerous panels of varying structural design would function similarly in Khan et al.'s building.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbey (5,317,848). Abbey teaches each feature of the claimed invention except a panel having a length dimension equal to the width dimension or a length dimension twice the width dimension. It, however, would have been obvious to one of ordinary skill in the art at the time of invention to have formed Abbey's panels of different dimensions as a number of polygonal shapes of varying proportion would function satisfactorily.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abbey (5,317,848), in view of Draper et al. (4,168,924). Abbey teaches each feature of the claimed invention as discussed above except construction of the panels from a polyolefin material. Draper, however, teaches construction with a polyolefin material (col. 7, line 68). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sawyer's panels from a polyolefin as taught by Draper as many suitable materials would be equally suitable for construction of Abbey's panels.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abbey (5,317,848), in view of Peshkam et al. (U.S. Pub. 2001/0032430 A1). Abbey teaches each feature of the claimed invention as discussed above. However, Abbey does not teach a panel containing a glass fiber additive. Pashkam, however, teaches a glass fiber reinforced polymer (paragraph [0053], line 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Abbey's panel of a

composite polymer as taught by Peshkam as an obvious design choice since numerous composite materials may be used equally satisfactorily.

Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paddock (6,604,328), in view of Abbey (5,317,848) and Sweeney (5,268,226). Paddock teaches each feature of the claimed invention except for panels composed of polymeric material and panels of the claimed structure. Abbey, however, teaches panels of the claimed structure as discussed above and Sweeney teaches a compressed polymeric panel. It would have been obvious to one of ordinary skill in the art at the time of invention to have formed Paddock's structure from Abbey's panels in order to take advantage of Abbey's ribs and rods to increase the structural integrity of each panel. Furthermore it would have been obvious to ordinary skill in the art at the time of invention to have formed Paddock's panels of polymeric material to make them light and strong as taught by Sweeney (claim 12).

#### ***Examiner's Response to Applicant's Remarks***


Applicant's Remarks have been considered but are moot in view of the new grounds of rejection. In addition, claims 17-19 which were originally indicated as having allowable subject matter are been rejected herein under new grounds discovered while searching for applicants newly added claim features.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
Kofi Schulterbrandt  
September 22, 2003

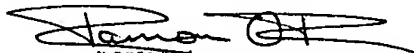
  
RAMON O. RAMIREZ  
PRIMARY EXAMINER  
ART UNIT ~~355~~ 3632

FIG-1

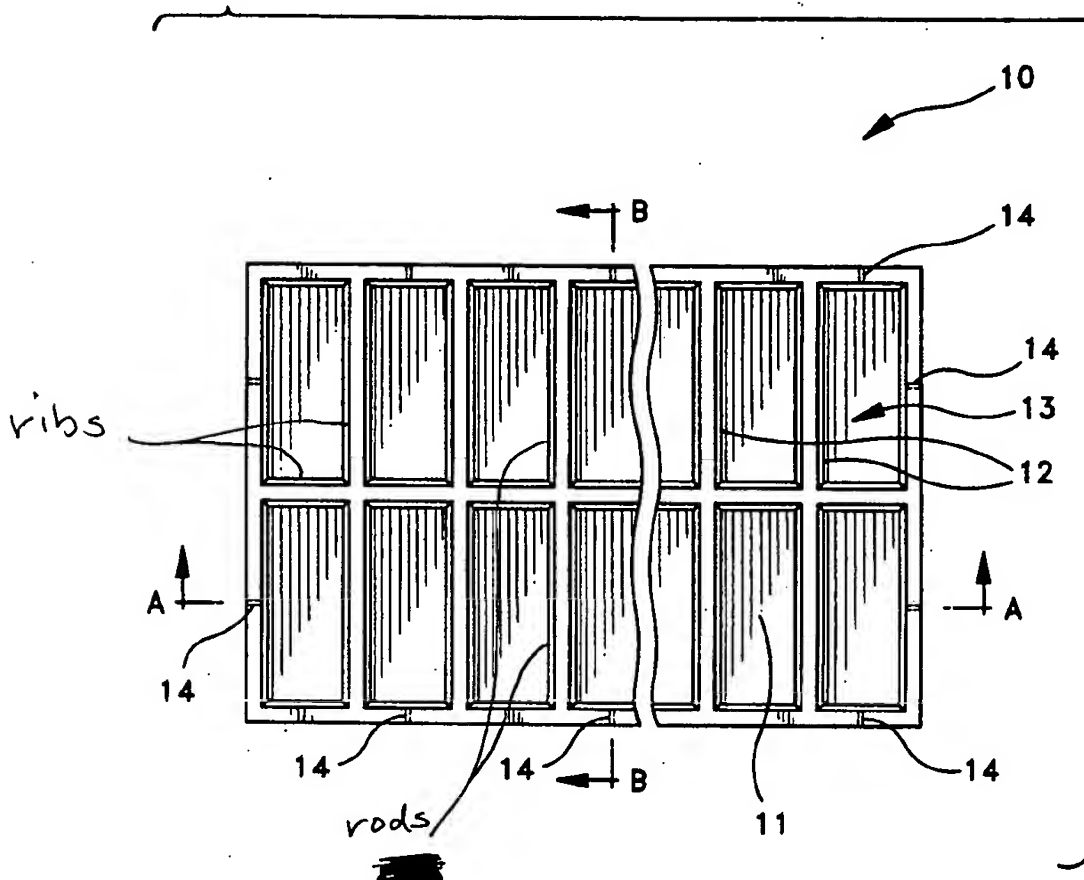


FIG-1a

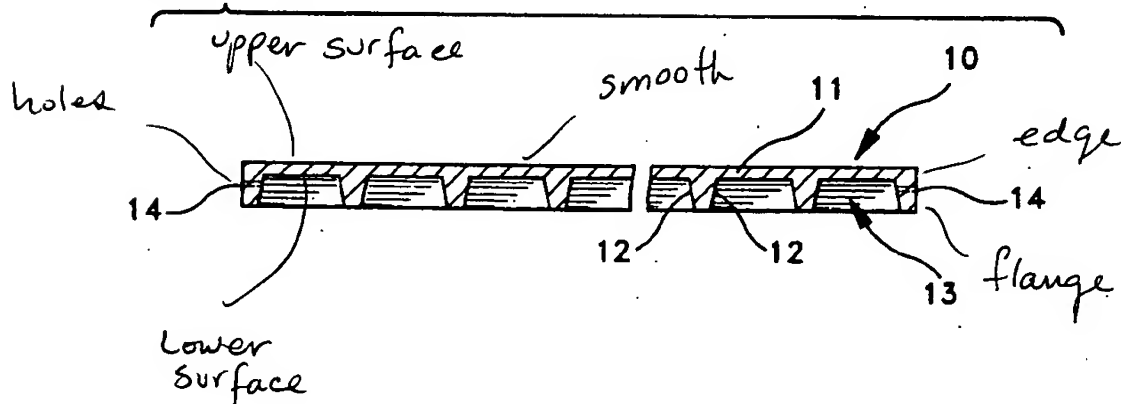




FIG-1b

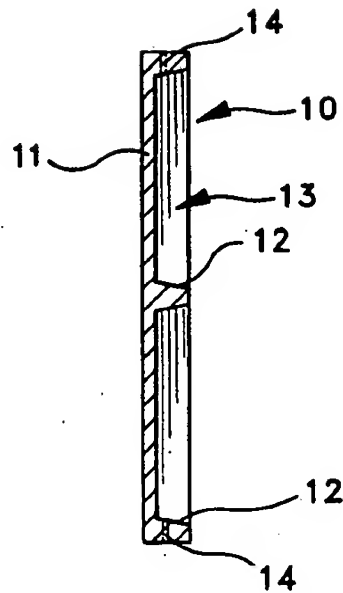


FIG-2

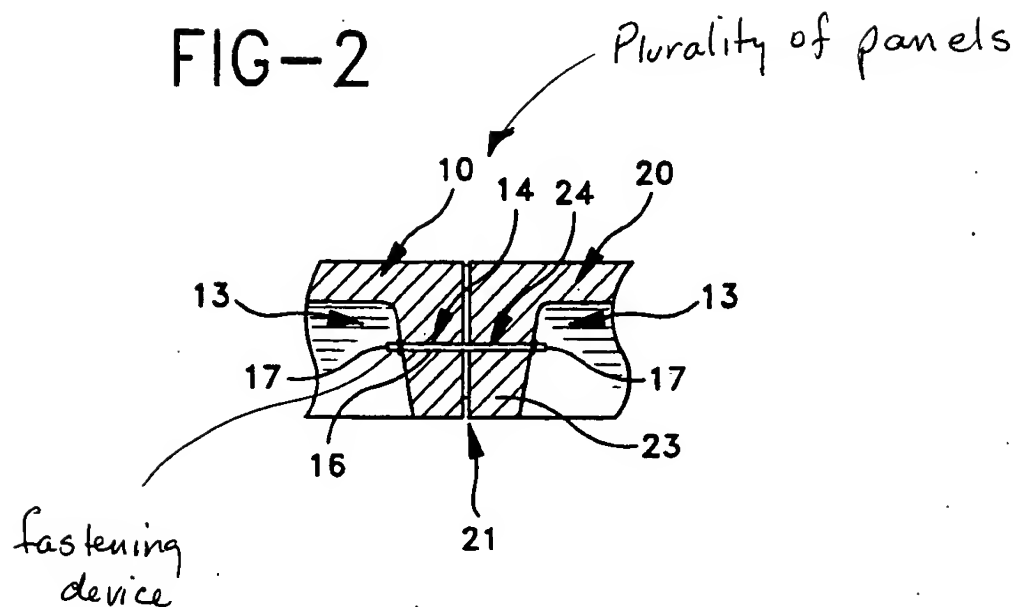


FIG-7

